

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BRIDGET KALLIO, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

LORI A. KALLIO and CURTIS D. KALLIO,

Respondents-Appellants.

UNPUBLISHED

November 10, 1998

No. 208132

Baraga Juvenile Court

LC No. 94-000801 NA

Before: Saad, P.J., and Hood and Gribbs, JJ.

PER CURIAM.

Respondents appeal as of right from a juvenile court order terminating their parental rights to the minor child. We affirm, but remand for the trial court to amend termination order by including statutory grounds for termination.

Respondents allege two violations of the time requirements set forth in MCR 5.974(F)(1). Contrary to respondents' claim, the forty-two day time requirement of subrule (F)(1)(a) was not violated, given that the supplemental petition to terminate was actually filed on November 20, 1996, only twenty-seven days after the petition was authorized by the court. Although the hearing on the termination petition did not commence until 217 days after the petition was filed, in violation of subrule (F)(1)(b), this Court will not set aside a termination order on this basis alone because the court rule provides no sanction for its violation. *In re Jackson*, 199 Mich App 22, 28; 501 NW2d 182 (1993); *In re Kirkwood*, 187 Mich App 542, 545-546; 468 NW2d 280 (1991). Furthermore, respondents have failed to demonstrate that the delay affected their substantial rights, MRE 103(d). On the contrary, the delay afforded respondents additional time in which to comply with the parent/agency agreement, and in particular to address the child abuse issue. They did not avail themselves of this opportunity. Accordingly, respondents are not entitled to appellate relief on this basis.

We further reject respondent-father's challenge to the legal sufficiency of the original and supplemental petitions. Respondent's challenge to the sufficiency of the allegations in the original petition constitutes an improper collateral attack on the juvenile court's exercise of its subject matter jurisdiction. *In re Hatcher*, 443 Mich 426; 505 NW2d 834 (1993). Furthermore, to the extent that respondent's brief can be read to challenge the juvenile court's personal jurisdiction over him, we would note that MCL 712A.6; MSA 27.3178(598.6) grants the juvenile court incidental jurisdiction over adults to ensure the well-being of children within its jurisdiction. *In re Macomber*, 436 Mich 386, 390-391; 461 NW2d 671 (1990). Therefore, although no express allegations of neglect were made regarding respondent-father in the original petition, the juvenile court was vested with incidental jurisdiction over him to the extent necessary to ensure the minor child's well-being.

Respondent-father also argues that the termination petition was defective because most of the allegations involved his relationship with other children, and the one allegation that involved Bridget failed to allege culpable neglect on his part. Respondent-father presents similar arguments in challenging the sufficiency of the evidence at trial to warrant termination. We find no merit to these arguments. A parent need not personally neglect a child to have his parental rights terminated for neglect. How a parent treats one child is probative of how that parent might treat another. *In re Powers*, 208 Mich App 582, 588-589; 528 NW2 799 (1995); *In re Jackson*, *supra* at 26. Furthermore, it is not necessary to prove culpable or blameworthy neglect of a child to terminate parental rights. *In re Jacobs*, 433 Mich 24, 37; 444 NW2d 789 (1989); MCL 712A.19b(3)(g); MSA 27.3178(598.19b)(3)(g). Neglect can be established when one parent permits an environment to continue in which the child will likely be abused or neglected. MCL 712A.19b(3)(b) and (i); MSA 27.3178(598.19b)(3)(b) and (i); *In re Miller*, 182 Mich App 70, 74; 451 NW2d 576 (1990); *In re Parshall*, 159 Mich App 683, 690; 406 NW2d 913 (1987).

Here, the supplemental petition alleged six statutory bases for termination of respondents' parental rights: MCL 712A.19b(3)(b), (c)(i), (c)(ii), (g), (i), and (j); MSA 27.3178(598.19b) (3)(b), (c)(i), (c)(ii), (g), (i), and (j). Contrary to what respondent-father argues on appeal, the petition was legally sufficient. Furthermore, the juvenile court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The evidence presented at trial established that respondent-father had relinquished his parental rights to three children from a previous marriage, that he had failed to protect Bridget's sibling from abuse by respondent-mother, that he failed to believe that respondent-mother had in fact committed child abuse despite clear and convincing evidence to the contrary, that he voluntarily released his parental rights to the sibling, that he had failed to provide proper care and custody of Bridget in the face of neglect by respondent-mother, and that, despite numerous opportunities to become a fit parent, respondent-father had failed to do so. Respondent failed to show that termination of his parental rights was clearly not in the child's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Hall-Smith*, 222 Mich App 470, 472-473; 564 NW2d 156 (1997). Accordingly, the juvenile court did not err in terminating respondent's parental rights to the minor child. *Id.*

We do find, however, that the trial court violated MCR 5.974(G)(3) by failing to set forth the statutory bases for termination in its order. In this case, however, the appropriate remedy is to remand to the trial court for the limited purpose of amending the order to enumerate the statutory grounds.

The omission of the statutory grounds from the order does not impede our review. The statutory grounds stated in the petition were MCL 712A.19b(3)(b); MSA 27.3178(598.19b)(3)(b) (child injured or abused because of parent's act or parent's failure to prevent injury, and reasonable likelihood of future injury or abuse); MCL 712A.19(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i) (conditions that led to initial adjudication continue to exist, without reasonable likelihood of correction); MCL 712A.19(3)(c)(ii); MSA 27.3178(598.19b)(c)(ii) (other conditions exist that cause the child to come within the court's jurisdiction, without reasonable likelihood of correction); MCL 712A.19(3)(g); MSA 27.3178(598.19b)(3)(g) (parent fails to provide proper care or custody without reasonable expectation of correction); MCL 712A.19(3)(i); MSA 27.3178(598.19b)(3)(i) (prior abuse of child's siblings with failed attempts to rehabilitate parents); and MCL 712A.19b(3)(j); MSA 27.3178(598.19b)(3)(j) (reasonable likelihood of future harm if child returned to parents' home). There was clear and convincing evidence to support any or all of these grounds. Given the ample evidentiary record of respondents' conduct toward Bridget's siblings and half-siblings, respondent-mother's failure to provide proper care for Bridget and failure to meet her medical needs, respondent-father's failure to intervene on Bridget's behalf, respondent-mother's physical abuse of Matthew and respondent-father's failure to protect him, respondents' repeated efforts to place their children in other homes, and respondents' failure to address these problems, each of these statutory grounds is well supported by clear and convincing evidence. We therefore affirm the trial court's order, but remand for the limited purpose of correcting the order by including the statutory grounds that the court relied upon.

Respondents' remaining claims are wholly without factual or legal support; therefore, we decline to address them further.

Affirmed, but remanded for trial court to amend termination order by including statutory grounds for termination. We retain jurisdiction.

/s/ Henry William Saad

/s/ Harold Hood

/s/ Roman S. Gribbs